

AMENDED IN SENATE JUNE 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1753

Introduced by Committee on Budget (Oropeza (Chair), Bermudez, Chan, Chu, Diaz, Dutra, Dymally, Goldberg, Hancock, Jackson, Liu, Montanez, Nakano, Pavley, Reyes, Simitian, and Wolk)

March 11, 2003

An act relating to the Budget Act of 2003 to repeal and add Chapter 13 (commencing with Section 4850) of Division 4.5 of, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1753, as amended, Committee on Budget. ~~Budget Act of 2003~~
Habilitation services.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2003.~~

Existing law establishes the Habilitation Services Program under the administration of the Department of Rehabilitation, and on July 1, 2004, transfers the administration of this program to the State Department of Developmental Services.

This bill would, commencing July 1, 2004, revise the scope and administration of the program.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2003.~~

SECTION 1. Chapter 13 (commencing with Section 4850) of Division 4.5 of the Welfare and Institutions Code is repealed.

SEC. 2. Chapter 13 (commencing with Section 4850) is added to Division 4.5 of the Welfare and Institutions Code, to read:

CHAPTER 13. HABILITATION SERVICES FOR PERSONS WITH
DEVELOPMENTAL DISABILITIES

4850. (a) The Legislature reaffirms its intent that habilitation services for adults with developmental disabilities should be planned and provided as a part of a continuum and that habilitation services should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to nondisabled people of the same age.

(b) The Legislature further intends that habilitation services shall be provided to adults with developmental disabilities as specified in this chapter in order to guarantee the rights stated in Section 4502.

4850.1. Notwithstanding Section 19050.9 of the Government Code, beginning July 1, 2004, the State Department of Developmental Services shall succeed to all functions and responsibilities of the Department of Rehabilitation with respect to the administration of the Habilitation Services Program established pursuant to former Chapter 4.5 (commencing with Section 19350) of Part 2 of Division 10.

4850.2. (a) Except as otherwise specifically provided, this chapter shall only apply to those habilitation services purchased by the regional centers.

(b) Nothing in this section shall be construed to abridge the rights stated in Section 4502.

4851. The definitions contained in this chapter shall govern the construction of this chapter, with respect to habilitation services provided through the regional center, and unless the context requires otherwise, the following terms shall have the following meanings:

1 (a) “Habilitation services” means community-based services
2 purchased or provided for adults with developmental disabilities,
3 including services provided under the Work Activity Program and
4 the Supported Employment Program, to prepare and maintain
5 them at their highest level of vocational functioning, or to prepare
6 them for referral to vocational rehabilitation services.

7 (b) “Individual program plan” means the overall plan
8 developed by a regional center pursuant to Section 4646.

9 (c) “Individual habilitation service plan” means the service
10 plan developed by the habilitation service vendor to meet
11 employment goals in the individual program plan.

12 (d) “Department” means the State Department of
13 Developmental Services.

14 (e) “Work activity program” includes, but is not limited to,
15 sheltered workshops or work activity centers, or community-based
16 work activity programs certified pursuant to subdivision (f) or
17 accredited by CARF, the Rehabilitation Accreditation
18 Commission.

19 (f) “Certification” means certification procedures developed
20 by the Department of Rehabilitation.

21 (g) “Work activity program day” means the period of time
22 during which a Work Activity Program provides services to
23 consumers.

24 (h) “Full day of service” means, for purposes of billing, a day
25 in which the consumer attends a minimum of the declared and
26 approved work activity program day, less 30 minutes, excluding
27 the lunch period.

28 (i) “Half day of service” means, for purposes of billing, any
29 day in which the consumer’s attendance does not meet the criteria
30 for billing for a full day of service as defined in subdivision (g), and
31 the consumer attends the work activity program not less than two
32 hours, excluding the lunch period.

33 (j) “Supported employment program” means a program that
34 meets the requirements of subdivisions (n) to (s), inclusive.

35 (k) “Consumer” means any adult who receives services
36 purchased under this chapter.

37 (l) “Accreditation” means a determination of compliance with
38 the set of standards appropriate to the delivery of services by a
39 work activity program or supported employment program,

1 *developed by CARF, the Rehabilitation Accreditation*
2 *Commission, and applied by the commission or the department.*

3 (m) *“CARF” means CARF the Rehabilitation Accreditation*
4 *Commission.*

5 (n) *“Supported employment” means paid work that is*
6 *integrated in the community for individuals with developmental*
7 *disabilities.*

8 (o) *“Integrated work” means the engagement of an employee*
9 *with a disability in work in a setting typically found in the*
10 *community in which individuals interact with individuals without*
11 *disabilities other than those who are providing services to those*
12 *individuals, to the same extent that individuals without disabilities*
13 *in comparable positions interact with other persons.*

14 (p) *“Supported employment placement” means the*
15 *employment of an individual with a developmental disability by an*
16 *employer in the community, directly or through contract with a*
17 *supported employment program. This includes provision of*
18 *ongoing support services necessary for the individual to retain*
19 *employment.*

20 (q) *“Allowable supported employment services” means the*
21 *services approved in the individual program plan and specified in*
22 *the individual habilitation service plan for the purpose of*
23 *achieving supported employment as an outcome, and may include*
24 *any of the following:*

25 (1) *Job development, to the extent authorized by the regional*
26 *center.*

27 (2) *Program staff time for conducting job analysis of supported*
28 *employment opportunities for a specific consumer.*

29 (3) *Program staff time for the direct supervision or training of*
30 *a consumer or consumers while they engage in integrated work*
31 *unless other arrangements for consumer supervision, including,*
32 *but not limited to, employer supervision reimbursed by the*
33 *supported employment program, are approved by the regional*
34 *center.*

35 (4) *Community-based training in adaptive functional and*
36 *social skills necessary to ensure job adjustment and retention.*

37 (5) *Counseling with a consumer’s significant other to ensure*
38 *support of a consumer in job adjustment.*

39 (6) *Advocacy or intervention on behalf of a consumer to resolve*
40 *problems affecting the consumer’s work adjustment or retention.*

1 (7) *Ongoing support services needed to ensure the consumer's*
2 *retention of the job.*

3 (r) *"Group services" means job coaching in a group supported*
4 *employment placement at a job coach-to-consumer ratio of not*
5 *less than one-to-four nor more than one-to-eight where services to*
6 *a minimum of four consumers are funded by the regional center or*
7 *the Department of Rehabilitation. For consumers receiving group*
8 *services, ongoing support services shall be limited to job coaching*
9 *and shall be provided at the worksite.*

10 (s) *"Individualized services" means job coaching and other*
11 *supported employment services for regional center-funded*
12 *consumers in a supported employment placement at a job*
13 *coach-to-consumer ratio of one-to-one, and that decrease over*
14 *time until stabilization is achieved. Individualized services may be*
15 *provided on or off the jobsite.*

16 4852. *A consumer shall be referred to a provider of*
17 *habilitation services under this chapter when all of the following*
18 *apply:*

19 (a) *The individual is an adult who has been diagnosed as*
20 *having a developmental disability.*

21 (b) *The individual is determined to be in need of and has chosen*
22 *habilitation services through the individual program planning*
23 *process pursuant to Section 4646.*

24 4853. (a) *When a referral for habilitation services pursuant*
25 *to Section 4852 has been made and if the individual is placed in*
26 *a work activity program, he or she shall be deemed presumptively*
27 *eligible for a period not to exceed 90 days.*

28 (b) *During the period of presumptive eligibility, the work*
29 *activity program shall submit a work skills evaluation report to the*
30 *regional center. The work skills evaluation report shall reflect the*
31 *performance of the consumer in all of the following areas:*

32 (1) *Appropriate behavior to safely conduct himself or herself in*
33 *a work setting.*

34 (2) *Adequate attention span to reach a productivity level in*
35 *paid work.*

36 (3) *Ability to understand and act on simple instructions within*
37 *a reasonable length of time.*

38 (4) *Ability to communicate basic needs and understand basic*
39 *receptive language.*

40 (5) *Attendance level.*

1 (c) During the period of presumptive eligibility, the individual
2 program plan planning team shall, pursuant to Section 4646,
3 utilize the work skills evaluation report to determine the
4 appropriateness of the referral.

5 4854. In developing the individual habilitation service plan
6 pursuant to Section 4853, the habilitation service provider shall
7 develop specific and measurable objectives to determine whether
8 the consumer demonstrates ability to reach or maintain individual
9 employment goals in all of the following areas:

10 (a) Participation in paid work for a specified period of time.

11 (b) Obtaining or sustaining a specified productivity rate.

12 (c) Obtaining or sustaining a specified attendance level.

13 (d) Demonstration of appropriate behavior for a work setting.

14 4854.1. The individual program plan planning team, shall,
15 pursuant to Section 4646, meet, when it is necessary to review any
16 of the following:

17 (a) The appropriateness of job placement.

18 (b) The appropriateness of the services available at the Work
19 Activity Program or Supported Employment Program.

20 (c) The individual habilitation service plan.

21 4855. When an individual who is eligible for habilitation
22 services under this chapter is referred to the Department of
23 Rehabilitation for vocational rehabilitation services, including
24 supported employment services, and is placed on a Department of
25 Rehabilitation waiting list for vocational rehabilitation as a result
26 of the Department of Rehabilitation's order of selection
27 regulations, the regional center shall authorize appropriate
28 services for the individual pursuant to this chapter as needed until
29 services can be provided by the vocational rehabilitation program.

30 4856. (a) The regional center shall monitor, evaluate, and
31 audit habilitation services providers for program effectiveness,
32 using performance criteria that include, but are not limited to, all
33 of the following:

34 (1) Service quality.

35 (2) Protections for individuals receiving services.

36 (3) Compliance with applicable CARF standards.

37 (b) (1) The regional center may impose immediate sanctions
38 on providers of work activity programs and supported employment
39 programs for noncompliance with accreditation or services
40 standards contained in regulations adopted by the department,

1 *and for safety violations which pose a threat to consumers of*
2 *habilitation services.*

3 *(2) Sanctions include, but are not limited to, the following:*

4 *(A) A moratorium on new referrals.*

5 *(B) Imposition of a corrective plan as specified in regulations.*

6 *(C) Removal of consumers from a service area where*
7 *dangerous conditions or abusive conditions exist.*

8 *(D) Termination of vendorization.*

9 *(c) A moratorium on new referrals may be the first formal*
10 *sanction to be taken except in instances where consumers are at*
11 *imminent risk of abuse or other harm. When the regional center*
12 *determines a moratorium on new referrals to be the first formal*
13 *sanction, a corrective action plan shall be developed. The*
14 *moratorium shall be lifted only when the conditions cited are*
15 *corrected per a corrective action plan.*

16 *(d) A corrective action plan is a formal sanction, that may be*
17 *imposed either simultaneously with a moratorium on new*
18 *referrals, or as a single sanction in circumstances that do not*
19 *require a moratorium, as determined by the regional center.*
20 *Noncompliance with the conditions and timelines of the corrective*
21 *action plan shall result in termination of vendorization.*

22 *(e) Removal of consumers from a program shall only take place*
23 *where dangerous or abusive conditions are present, or upon*
24 *termination of vendorization. In instances of removal for health*
25 *and safety reasons, when the corrections are made by the program,*
26 *as determined by the regional center, consumers may return, at*
27 *their option.*

28 *(f) Any provider sanctioned under subparagraph (B) or (C) of*
29 *paragraph (2) of subdivision (b) may request an administrative*
30 *review as specified in Section 4648.1.*

31 *(g) Any provider sanctioned under subparagraph (D) of*
32 *paragraph (2) of subdivision (b) shall have a right to a formal*
33 *review by the Office of Administrative Hearings under Chapter 4*
34 *(commencing with Section 11370) of Part 1 of Division 3 of Title*
35 *2 of the Government Code.*

36 *(h) Effective July 1, 2004, if a habilitation services provider is*
37 *under sanction under former Section 19354.5, the provider shall*
38 *complete the requirements of the corrective action plan or any*
39 *other terms or conditions imposed upon it as part of the sanctions.*
40 *At the end of the term of the corrective action plan or other*

1 *compliance requirements, the services provider shall be evaluated*
2 *by the regional center based upon the requirements in this section.*

3 *4857. The regional center shall purchase habilitation services*
4 *pursuant to the individual program plan. Habilitation services*
5 *shall continue as long as satisfactory progress is being made*
6 *toward achieving the objectives of the individual habilitation*
7 *service plan or as long as these services are determined by the*
8 *regional center to be necessary to maintain the individual at their*
9 *highest level of vocational functioning, or to prepare the individual*
10 *for referral to vocational rehabilitation services.*

11 *4857.1. Regional centers may purchase habilitation services*
12 *only from providers who are accredited community nonprofit*
13 *agencies that provide work activity services or supported*
14 *employment services, or both, and that have been vendored as*
15 *described in Section 4861 and regulations promulgated pursuant*
16 *thereto. Habilitation services providers who, on July 1, 2004, are*
17 *providing services to consumers shall be deemed to be an approved*
18 *vendor.*

19 *4858. (a) Each work activity program vendor shall, at a*
20 *minimum, annually review the status of consumers participating*
21 *in their program to determine whether these individuals would*
22 *benefit from vocational rehabilitation services, including*
23 *supported employment.*

24 *(b) If it is determined that the consumer would benefit from*
25 *vocational rehabilitation services, the work activity program*
26 *vendor shall, in conjunction with the regional center and in*
27 *accordance with the individual program plan process, refer the*
28 *consumer to the Department of Rehabilitation.*

29 *4859. (a) The department shall adopt regulations to establish*
30 *rates for work activity program services subject to the approval of*
31 *the Department of Finance. The regulations shall provide for an*
32 *equitable and cost-effective rate setting procedure in which each*
33 *specific allowable service, activity, and provider administrative*
34 *cost comprising an overall habilitation service, as determined by*
35 *the department, reflects the reasonable cost of service. Reasonable*
36 *costs shall be determined biennially by the department, subject to*
37 *audit at the discretion of the department.*

38 *(b) The department shall adopt the existing work activity*
39 *program rates as of July 1, 2004, that shall remain in effect until*
40 *the next rate-setting year.*

1 (c) Notwithstanding paragraph (4) of subdivision (a) of Section
2 4648, the regional center shall pay the work activity program rates
3 established by the department.

4 4860. (a) (1) The hourly rate for supported employment
5 services provided to consumers receiving individualized services
6 shall be twenty-seven dollars and sixty-two cents (\$27.62).

7 (2) Job coach hours spent in travel to consumer worksites may
8 be reimbursable for individualized services only when the job
9 coach travels from the vendor's headquarters to the consumer's
10 worksite or from one consumer's worksite to another, and only
11 when the travel is one-way.

12 (b) The hourly rate for group services shall be twenty-seven
13 dollars and sixty-two cents (\$27.62), regardless of the number of
14 consumers served in the group. Consumers in a group shall be
15 scheduled to start and end work at the same time, unless an
16 exception that takes into consideration the consumer's
17 compensated work schedule is approved in advance by the
18 regional center. The department, in consultation with
19 stakeholders, shall adopt regulations to define the appropriate
20 grounds for granting these exceptions. When the number of
21 consumers in a supported employment placement group drops to
22 fewer than the minimum required in subdivision (r) of Section 4851
23 the regional center may terminate funding for the group services
24 in that group, unless, within 90 days, the program provider adds
25 one or more regional center, or Department of Rehabilitation
26 funded supported employment consumers to the group.

27 (c) Job coaching hours for group services shall be allocated on
28 a prorated basis between a regional center and the Department of
29 Rehabilitation when regional center and Department of
30 Rehabilitation consumers are served in the same group.

31 (d) When Section 4855 applies, fees shall be authorized for the
32 following:

33 (1) A two hundred dollar (\$200) fee shall be paid to the
34 program provider upon intake of a consumer into a supported
35 employment program. No fee shall be paid if that consumer
36 completed a supported employment intake process with that same
37 supported employment program within the previous 12 months.

38 (2) A four hundred dollar (\$400) fee shall be paid upon
39 placement of a consumer in an integrated job, except that no fee
40 shall be paid if that consumer is placed with another consumer or

1 consumers assigned to the same job coach during the same hours
2 of employment.

3 (3) A four hundred dollar (\$400) fee shall be paid after a
4 90-day retention of a consumer in a job, except that no fee shall be
5 paid if that consumer has been placed with another consumer or
6 consumers, assigned to the same job coach during the same hours
7 of employment.

8 (e) Notwithstanding paragraph (4) of subdivision (a) of Section
9 4648 the regional center shall pay the supported employment
10 program rates established by this section.

11 4861. The regional center may vendor new work activity or
12 supported employment programs, after determining the capacity
13 of the program to deliver effective services, and assessing the
14 ability of the program to comply with CARF requirements.

15 (a) Programs that receive the regional center's approval to
16 provide supported employment services shall receive rates in
17 accordance with Section 4860.

18 (b) A new work activity program shall receive the statewide
19 average rate, as determined by the department. As soon as the new
20 work activity program has a historical period of not less than three
21 months that is representative of the cost per consumer, as
22 determined by the department, the department shall set the rate in
23 accordance with Section 4859.

24 (c) The regional center may purchase services from new work
25 activity programs and supported employment programs, even
26 though the program is not yet accredited by CARF, if all of the
27 following apply:

28 (1) The vendor can demonstrate that the program is in
29 compliance with certification standards established by the
30 Department of Rehabilitation, to allow a period for becoming
31 CARF accredited.

32 (2) (A) The program commits, in writing, to apply for
33 accreditation by CARF within three years of the approval to
34 purchase services by the regional center.

35 (B) CARF shall accredit a program within four years after the
36 program has been vendored.

37 (d) The regional center may approve or disapprove proposals
38 submitted by new or existing vendors based on all of the following
39 criteria to the extent that it is federally permissible:



1 *(1) The need for a work activity or supported employment*
2 *program.*

3 *(2) The capacity of the vendor to deliver work activity or*
4 *supported employment services effectively.*

5 *(3) The ability of the vendor to comply with the requirements of*
6 *this section.*

7 *(4) The ability of the vendor to achieve integrated paid work for*
8 *consumers served in supported employment.*

9 4862. *(a) The length of a work activity program day shall not*
10 *be less than five hours, excluding the lunch period.*

11 *(b) (1) Except as provided in paragraph (2), the length of a*
12 *work activity program day shall not be reduced from the length of*
13 *the work activity program day in the historical period that was the*
14 *basis for the approved habilitation services rate.*

15 *(2) (A) A work activity program may, upon consultation with,*
16 *and prior written approval from, the regional center, change the*
17 *length of a work activity program day.*

18 *(B) If the regional center approves a reduction in the work*
19 *activity program day pursuant to subparagraph (A), the*
20 *department may change the work activity program.*

21 *(c) (1) A work activity program may change the length of a*
22 *work activity program day for a specific consumer in order to meet*
23 *the needs of that consumer, if the regional center, upon the*
24 *recommendation of the individual program planning team,*
25 *approves the change.*

26 *(2) The work activity program shall specify in writing to the*
27 *regional center the reasons for any proposed change in a work*
28 *activity program day on an individual basis.*

29 4863. *(a) In accordance with regulations adopted by the*
30 *department, and if agreed upon by the work activity program and*
31 *the regional center, hourly billing shall be permitted, provided that*
32 *it does not increase the regional center's costs when used in lieu*
33 *of full-day or half-day billing. A work activity program shall be*
34 *required to submit a request for the hourly billing option to the*
35 *regional center not less than 60 days prior to the program's*
36 *proposed implementation of this billing option.*

37 *(b) If a work activity program and the regional center elect to*
38 *utilize hourly billing, the hourly billing process shall be required*
39 *to be used for a minimum of one year.*

1 (c) When the hourly billing process is being used, the
2 definitions contained in subdivisions (h) and (i) of Section 4851
3 shall not apply.

4 4864. The department shall authorize payment for absences
5 in work activity programs and supported employment programs
6 that are directly consequent to a declaration of a State of
7 Emergency by the Governor. If the department authorizes payment
8 for absences due to a state of emergency, the vendor shall bill only
9 for absences in excess of the average number of absences
10 experienced by the vendor during the 12-month period prior to the
11 month in which the disaster occurred.

12 4865. At the request of the Department of Rehabilitation, a
13 work activity or supported employment program or both shall
14 release accreditation and state licensing reports and consumer
15 special incident reports as required by law or regulations in
16 instances of suspected abuse.

17 4866. The department may promulgate emergency
18 regulations to carry out the provisions of this chapter. If the
19 Department of Developmental Services promulgates emergency
20 regulations, the adoption of the regulations shall be deemed
21 necessary for the immediate preservation of the public peace,
22 health and safety, or general welfare for purposes of subdivision
23 (b) of Section 11346.1 of the Government Code.

24 4867. Nothing in this chapter shall be interpreted to mean that
25 work activity programs or supported employment programs
26 cannot serve consumers who are funded by agencies other than
27 regional centers, including, but not limited to, the Department of
28 Rehabilitation.

29 SEC. 3. Sections 1 and 2 of this act shall become operative on
30 July 1, 2004.